

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

ASHFAQ HUSSAIN SYED, SHELLY RENEE)
BRANCH, A.M.S., by Next Friend Ashfaq)
Hussain Syed, and N.G.S., by Next Friend)
Ashfaq Hussain Syed,)

Plaintiffs,)

v.)

FRONTIER AIR LINES, INC.; HALLMARK)
AVIATION SERVICES, L.P.)

Defendants.)
_____)

Case No. 4:20-cv-407-AGF

**HALLMARK AVIATION SERVICES, L.P.'S MOTION TO DISMISS AND
MOTION TO STRIKE PURSUANT TO 12(b)(6) AND 12(f)(2)**

PLEASE TAKE NOTICE that, pursuant to Fed. R. Civ. P. 12(b)(6) and 12(f)(2), Defendant HALLMARK AVIATION SERVICES, L.P. ("Hallmark"), by its undersigned counsel, respectfully requests that this Court dismiss Counts I through V of Plaintiffs' Amended Complaint and Strike Plaintiffs' punitive damages allegations. In support of its Motion, defendant states as follows:

1. This Court should dismiss Plaintiffs' Amended Complaint in its entirety because all of Plaintiffs' claims against Hallmark, including their claim for punitive damages, are preempted by the Airline Deregulation Act. In the alternative: Counts II through IV of Plaintiffs' Amended Complaint should be dismissed because they fail to state claims upon which relief can be granted; and Count I of the Amended Complaint and Plaintiffs' punitive damages allegations should be stricken because they are insufficiently pleaded and immaterial to this case.

2. Plaintiffs' state law claims are preempted by the Airline Deregulation Act.
3. That in the alternative, Count II should be dismissed because the TICKETS Act was not in effect at the time of this incident and does not apply retroactively.
4. That in the alternative, Count III should be dismissed because it does not assert a viable legal theory of recovery.
5. That in the alternative, Count IV should be dismissed because it does not assert a viable legal theory of recovery.
6. That the Court should strike Count I of Plaintiffs' Amended Complaint because it contains no facts or allegations and is immaterial.
7. This Court should strike Plaintiffs' punitive damages allegations because they are insufficiently pleaded and immaterial to this case.
8. That in support of its Motion to Dismiss and Motion to Strike, defendant Hallmark Aviation Services L.P. submits concomitantly herewith its Memorandum of Law.

WHEREFORE, Defendant HALLMARK AVIATION SERVICES, L.P., prays that this Honorable Court enter an order dismissing Counts I through V of Plaintiffs' Amended Complaint pursuant to Fed. R. Civ. P. 12(b)(6), striking Plaintiffs' punitive damages allegations pursuant to Fed. R. Civ. P. 12(f)(2), and for such further relief as this Court deems necessary and proper.

Respectfully Submitted,

HEPLERBROOM LLC

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Attorney for Defendant Hallmark Aviation
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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed on this 20th day of MARCH, 2020, the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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I hereby certify that the foregoing document has been electronically mailed to the following on this 20th day of MARCH, 2020:

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